



due to the person, firm or corporation entitled thereto, the employee shall be entitled to a civil penalty, . . . .”

The Appeals Board finds that penalties cannot be assessable under K.S.A. 44-512a unless compensation, in the form of either medical or disability benefits, is due and owing. The finding by the Administrative Law Judge that no penalties can be assessed if no amounts are due and owing is proper and the Appeals Board affirms same.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark, dated May 12, 1994, is affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Steven R. Wilson, Wichita, KS  
Frederick L. Haag, Wichita, KS  
Kendall R. Cunningham, Wichita, KS  
John D. Clark, Administrative Law Judge  
George Gomez, Director